

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MATHEW COLLETT,

Plaintiff,

v.

MASON COUNTY, et al.,

Defendants.

CASE NO. 3:23-CV-5654-TMC-DWC

ORDER DECLINING TO
VOLUNTARILY RECUSE

The District Judge has referred this prisoner civil rights action to United States Magistrate Judge David W. Christel. Plaintiff Mathew Collett, proceeding *pro se* and *in forma pauperis*, has filed a Motion for Recusal. Dkt. 112. In accordance with Local Civil Rule (“LCR”) 3(f), the undersigned “will review the motion papers and decide whether to recuse voluntarily.”

I. LEGAL STANDARD

A judge of the United States shall disqualify himself in any proceeding in which his impartiality “might reasonably be questioned.” 28 U.S.C. § 455(a). A federal judge also shall disqualify himself in circumstances where he has a personal bias or prejudice concerning a party

1 or personal knowledge of disputed evidentiary facts concerning the proceeding. *Id.* at §455(b)(1).
 2 28 U.S.C. § 144 states:

3 Whenever a party to any proceeding in a district court makes and files a timely and
 4 sufficient affidavit that the judge before whom the matter is pending has a personal
 5 bias or prejudice either against him or in favor of any adverse party, such judge
 6 shall proceed no further therein, but another judge shall be assigned to hear such
 7 proceeding. The affidavit shall state the facts and the reasons for the belief that bias
 8 or prejudice exists.

9 28 U.S.C. § 144.

10 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
 11 if “a reasonable person with knowledge of all the facts would conclude that the judge’s
 12 impartiality might reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626
 13 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
 14 bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir.1992);
 15 *United States v. Conforte*, 624 F.2d 869, 881 (9th Cir.1980). In *Liteky v. United States*, 510 U.S.
 16 540 (1994), the United States Supreme Court further explained the narrow basis for recusal:

17 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
 18 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or
 19 events occurring in the course of the current proceedings, or of prior proceedings,
 20 do not constitute a basis for a bias or partiality motion unless they display a deep
 21 seated favoritism or antagonism that would make fair judgment impossible. Thus,
 22 judicial remarks during the course of a trial that are critical or disapproving of, or
 23 even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias
 24 or partiality challenge.

510 U.S. at 555.

20 II. DISCUSSION

21 In his Motion, Plaintiff complains the undersigned “has not acted fairly” in adjudicating
 22 this case and has a “tradition of bias” in ruling on “any and all” of Plaintiff’s motions. Dkt. 112.
 23 However, Plaintiff’s concern with bias is based on judicial rulings, which “almost never
 24 constitute a valid basis for a bias or partiality motion.” *Liteky*, 510 U.S. at 555. The undersigned

1 has no personal bias or reason to be partial to one side or the other in this matter; rather, the
2 undersigned makes rulings in each case based upon the issues presented by the parties or upon an
3 independent review by the Court.

4 In sum, Plaintiff shows no reasonable basis for questioning the undersigned's
5 impartiality. Accordingly, the undersigned will not recuse himself voluntarily from this case.

6 **III. CONCLUSION**

7 For the foregoing reasons, this Court finds there is no reasonable basis for a voluntary
8 recusal in this matter. Therefore, the undersigned declines to recuse himself voluntarily.

9 The Clerk is directed to refer Plaintiff's Motion for Recusal (Dkt. 112) to Chief Judge
10 David G. Estudillo in accordance with Local Civil Rule 3(f). The Clerk is also directed to send a
11 copy of this Order to the parties and to the Honorable Tiffany M. Cartwright, the District Judge
12 assigned to this case.

13 Dated this 5th day of March, 2024.

14 

15 _____
16 David W. Christel
17 United States Magistrate Judge
18
19
20
21
22
23
24